

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND -2 PM 2:10

	At Greenbelt	U.S. BANKRUPTCY COURT DISTRICT OF MARYLAND GREENBELT
In Re:	*	
LB WALKER,	*	
	*	Case No. 19-21966
	*	Chapter 7
Debtor.	*	
*****	*	
LB WALKER	*	
	*	
	*	
Movant,	*	
Vs.	*	
	*	
JOHN HERBECK d/b/a	*	
EASTERN SHORE JUDGMENT RECOVERY	*	
	*	
Respondent.	*	

MOTION TO AVOID JUDICIAL LIEN

1. Debtor, LB Walker, commenced this action on September 6, 2019, by filing a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code.
2. Jurisdiction of the Bankruptcy court to hear this motion is provided by 28 U.S.C. Sec 1334.
3. This motion is filed by the Debtor under 11 U.S.C. Sec 522 (f)(1)(A) to avoid and cancel judicial liens held by John Herbeck d/b/a Eastern Shore Judgment Recovery, Baltimore City Circuit Court, Case Number 24-C-09-00, Entered 03/04/2013, in the amount of \$339,284.40 and f Prince George's County Circuit Court, Case Number CAL 13-03375, Entry Date: 2019, in the amount of \$339,284.40. A default judgment was obtained by Elliot N. Lewis, Trustee Of The Elliott N. Lewis P.A. Profit Sharing (PG: Prince George's County Circuit Court, Case Number CAL 13-03375, in the amount of \$339,284.40, and

Baltimore City Circuit Court, Case Number 24-C-09-00, Entered 03/04/2013, in the amount of \$339,284.40.) On information and belief, Debtor says that Elliott N. Lewis P.A. Profit Sharing assigned a judgment to John Herbeck d/b/a Eastern Shore Judgment Recovery. John Hebeck levied on under a writ of Attachment issued out of the Circuit Court for Prince George's County at the suit of John Herbeck against Debtor, CAL 13-03375, Circuit Court, Term, 2019; on Debtor's residential property 5305 59th Avenue, Riverdale, Maryland 20737.

4. Debtor became indebted to Elliott N. Lewis P.A. Profit Sharing as a result of Debtor signing as guarantor for mortgage loans that Elliott N. Lewis, P.A. Profit Sharing made to multiple company borrowers to fund real estate transactions in Baltimore City. The mortgage loans were collateralized by real estate located in Baltimore City. The loans were transacted just before the beginning of the 2008 recession. During the recession the real estate market in Baltimore City crashed and the real estate did not sell, resulting in a default on the mortgage loans. Elliott N. Lewis P.A. Profit Sharing did not foreclose on the collateral real estate, but instead sued Debtor as guarantor of the loans and obtained multiple default judgments, which effected judicial liens on debtor's property, all judgments were entered of record , Courts and Case Numbers stated herein above. Elliott N. Lewis P.A. Profit Sharing's judgment was assigned to John Herbeck d/b/a Eastern Shore Judgment Recovery.
5. The existence of John Herbeck d/b/a Eastern Shore Judgment Recovery 's security interest in Debtor's property impairs exemptions to which the Debtor would be entitled under 11 U.S.C. Sec. 522(b)(f)(2). MD CODE ANN., Cts & JUD. Proc. Sec. 11-504(f)(1)(ii), 11-504(g) (2000), 11-504(b)(5), 11-504(b)(4), 14-501.

Section 522(b)(2)(A) if Title 11 provides that exempt property includes property exempt under federal law or under state or local law in effect on the date the bankruptcy petition is filed.

Section 11-504 of Courts and Judicial Proceedings portion of the Code of Maryland provides: (b) in general – the following items are exempt from execution on a judgment:

- (1) Wearing apparel, books, tools, instruments, or appliances....
- (4) The debtor's interest, not to exceed \$500 in value, in household furnishings, household goods, wearing apparel, appliances, books... and other items that are held primarily for the personal, family, or household use of the debtor or any dependent of the debtor.

(5) Cash or property of any kind equivalent in value to \$3,000 is exempt....

WHEREFORE, Debtor moves this Court for an Order which would cancel and avoid the security interest held by John Herbeck d/b/a Eastern Shore Judgment Recovery in Debtor's property and for such additional or alternative relief as may be just and proper

DEBTOR:

DATE:

LB Walker

10/2/19

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of October, 2019, a copy of LB Walker's (Debtor) Motion To Avoid Lien On Debtor's Principal Residence was mailed first class mail, postage prepaid to:

Janet M. Nesse, Bankruptcy Trustee

McNamee, Hosea, et.al.

6411 Ivy Lane, Suite 200

Greenbelt, MD 20770

John Herbeck d/b/a ESJR

P.O. Box 233

Marion, MD 21838

DEBTOR:

DATE:

LB Walker

10/2/19

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**ORDER GRANTING MOTION TO AVOID LIEN
ON DEBTOR" PRINCIPAL RESIDENCE**

Having considered debtor's Motion to Avoid Lien, and any response filed thereto, and it appearing that proper notice has been given, pursuant to 11 U.S.C. Sec. 506 and for the reasons set forth in the cases of Johnson v. Asset Management Group, LLC, 226 B.R. 364 (D. MD. 1998), and in First Marnier Bank v. Johnson, 411 B.R. 221 (D. MD. 2009) IT IS BY THE United States Bankruptcy Court for the District of Maryland,

ORDERED, that the claim of Respondent(s) be and is hereby deemed wholly unsecured; and it is further,

ORDERED, that at such time as a discharge Order is entered pursuant to 11 U.S.C. Sec. 1328 the lien held in favor of Respondent(s) on Debtor's real property described as: 5305 59th Avenue, Riverdale, Maryland 20737, is avoided, and it is further,

ORDERED, that if the Respondent has filed or timely files a proof of claim, the claim of the Respondent be and hereby is allowed as a general unsecured claim for purposes of distributions under the Debtor's plan; and it is further,

ORDERED, that allowance of the claim of the Respondent as an unsecured claim pursuant to this Order is without prejudice to objection to such claim on other grounds.

JUDGE:

Date: _____

CC: Janet M. Nesse, Bankruptcy Trustee
McNamee, Hosea, et.al.
6411 Ivy Lane, Suite 200
Greenbelt, MD 20770

LB Walker
5305 59th Avenue
Riverdale, MD 20737

John Herbeck d/b/a ESJR

P.O. Box 233

Marion, MD 21838

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**NOTICE OF DEBTOR'S MOTION
TO AVOID LIEN PURSUANT TO 11 U.S.C SEC. 522(f)
AND HEARING THEREON**

A motion was filed on behalf of the debtor to avoid a lien held by John Herbeck d/b/a Eastern Shore (PG: Prince George's County Circuit Court, Case Number CAL 13-03375, Entry Date: 2019, in the amount of \$339,284.40,

You should read these papers carefully and discuss them with your lawyer. If you do not have a lawyer, you may wish to consult one. A copy of the motion is attached.

If you do not want the court to grant the motion avoiding the lien, or if you want the court to consider your views on the motion, then by October 2, 2019, (parties served by mail may add three (3) additional days to the response deadline) you or your lawyer must file with the Clerk of the Bankruptcy Court a response to the motion explaining your position and mail a copy of the response to: LB Walker, 5305 59th Avenue, Riverdale, MD 20737.

If you mail, rather than deliver, your response to the Clerk of the Court for filing, you must mail it early enough so that the court will receive it by the date stated above.

If you file a timely response to the motion, the hearing on the motion will take place on November 20, 2019, at 10:00 a.m., in Courtroom 3-D, United States Bankruptcy Court,

If you or your lawyer do not file and serve a timely response to the motion, the court may find that you do not oppose the relief sought in the motion and may grant or otherwise dispose of the motion before the scheduled hearing date.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON 2nd DAY OCTOBER, 2019, I REVIEWED THE Court's CM/ECF system and it reports that an electronic copy the Notice of Debtor's Motion to Avoid Lien Pursuant to 11 U.S.C. Sec. 533(f) and Hearing thereon will be served electronically by the Court's CM/ECF system on the following:

Janet M. Nesse, Bankruptcy Trustee, Chapter 7
McNamee, Hosea, et.al.
6411 Ivy Lane, Suite 200
Greenbelt, MD 20770

I hereby further certify that on 2nd day of October, 2019, a copy of the Notice of Debtor's Motion to Avoid Lien Pursuant to 11 U.S.C. Sec. 522(f) and Hearing Thereon was also mailed first class mail, postage prepaid to:

John Herbeck d/b/a ESJR
P.O. Box 233
Marion, MD 21838

LB Walker

Date: 10/2/19

LB Walker